

### III. Remarks

This amendment is being filed with a Request For Continued Examination. Reconsideration and allowance of the subject application are respectfully requested.

Claims 2-5, 7, 11-13, and 15-21 are pending in the application. Claims 2, 7, 11, 12, 15, 16, 17, 18, 19, and 20 are independent.

The specification has been amended to include excerpts from the National Fire Protection Association's NFPA 2001 Standard on Clean Agent Fire Extinguishing Systems, 2000 edition ("NFPA 2001"), discussed in the originally-filed application. No new matter has been added.

NFPA 2001 relates to subject matter with which the person having ordinary skill in the art would have been familiar, and is, along with the term "clean agent", referred to in paragraph [0019] of the published subject application, as originally filed.

Claims 2, 7, 11, 12, 15, 16, 17, 18, 19 and 20 have been amended to include recitations to clarify that the invention delivers a "clean agent" fire suppressing gas into a space.

In the Office Action dated January 11, 2008, Claims 2-5, 7, and 15-20 were rejected on the ground of nonstatutory obviousness-type double patenting over claims 1-14 of U.S. Patent No. 7,028,782. Claims 11-13 were rejected on the

ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-14 of the '782 patent in view of Galbraith et al. While Applicants respectfully traverse all such rejections, Applicants submit herewith a Terminal Disclaimer with respect to the '782 patent.

Claims 2-5, 7, 11-13 and 19 were rejected as being unpatentable over Holland et al. in view of Drakin. Claims 15 and 16 were rejected as being unpatentable over Holland et al. in view of Drakin as applied to claims 2-5, 7, 11-13 and 19, and further in view of Parkinson et al. Claims 17, 18 and 20 were rejected as being unpatentable over Holland et al. in view of Parkinson et al. and Dunn.

Each of Galbraith et al., Holland et al., Drakin, Parkinson et al., and Dunn relate only to aerosol systems. This means that each of these references teach fire suppression techniques that do not and could not involve delivery of a clean agent into a space. More particularly:

Galbraith et al. refer to Halons and carbon dioxide fire suppression (i.e. not covered under NFPA 2001 standard for clean agents) and further state that "It is a feature of the invention that the apparatus effectively delivers both liquid and solid fire suppressants" (Column 2, lines 58-60). Galbraith et al. thus deliver an aerosol and not a clean agent.

Holland et al. refer to Halons and teach a fire suppression technique involving a combination of physically-acting and chemically-acting fire suppression agents. Holland et al. state that "The chemically-acting fire suppression agent is generally a chemical...Upon combustion of the propellant and oxidizer, the chemically-acting fire suppression agent is vaporized and swept into the fire by the gas stream." (Column 4, lines 37-45). Holland et al. thus deliver an aerosol and not a clean agent.

Drakin teaches delivery of a fire suppression technique requiring delivery into the space of "a vapor, gas and aerosol mixture that is preliminarily oxidized and cooled and that contains a solid phase with particles of 1 to 2  $\mu\text{m}$ ." (Abstract). Drakin thus delivers an aerosol and not a clean agent.

Parkinson et al. teaches a fire suppressant stored in a pressure bottle, and the delivery of a powdered fire suppression material into a space (see Abstract). The powdered fire suppression material is housed in the pressure bottle with a source of pressurized gas (Column 4, lines 41-45). Parkinson et al. thus deliver an aerosol and not a clean agent.

Dunn teaches a compressed gas fire extinguisher that delivers a suitable fire extinguishing agent as a solid material in powder or dust form. Drakin teaches that a desirable agent is sodium bicarbonate. Alternatives to dry

powder include liquid type extinguishing agents such as carbon tetrachloride (see Column 5, lines 6 to 29). Dunn thus delivers an aerosol and not a clean agent.

Applicants would like to respectfully indicate that the **NFPA 2010 Standard on Aerosol Fire-Extinguishing Systems ("NFPA 2010")** was developed to address aerosol systems not covered under NFPA 2001 for clean agents. Indeed, an aerosol system cannot be approved under NFPA 2001, which establishes as part of the "clean agent" definition that such an agent not leave a residue after evaporation. In contrast, NFPA 2010 (2006 edition) specifies in subsection 1.1.1 its scope, as follows:

1.1.1 This standard contains the requirements for the design, installation, operation, testing and maintenance of condensed and dispersed aerosol fire-extinguishing systems for total-flooding applications.

According to the NFPA 2010 document, "Aerosol" is defined in Section 3.3.2, as follows:

### **3.3.2 Aerosol.**

**3.3.2.1 Condensed Aerosol.** An extinguishing medium consisting of finely divided solid particles, generally less than 10 microns in diameter, and gaseous matter, generated by a combustion process of a solid aerosol-forming compound.

**3.3.2.2 Dispersed Aerosol.** An extinguishing medium consisting of fine particles of chemicals, generally less than 10 microns in diameter, already resident inside a pressurized agent storage container, suspended in a

halocarbon or an inert gas.

In stark contrast to that which is described in all of the cited documents, all independent claims of this application have been amended to recite delivery of a clean agent into a space for fire suppression. Given the requirement for two contrasting and mutually exclusive technical standards for clean agents versus aerosols, a person having ordinary skill in the art at the time of the invention could not have been led directly and without difficulty from the cited aerosol references, taken either alone or in any combination, to the clean agent systems and methods recited in the present claims.

As such, it is respectfully requested that the rejections for obviousness be withdrawn.

In view of the above, it is believed that this application is now in a condition for allowance, and a Notice thereof is respectfully requested.

Applicants' undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 625-3507. All correspondence should continue to be directed to our address given below.

Respectfully submitted,

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